IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 61 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CIT

Versus

AUSTIN ENGG. CO.LTD.

Appearance:

1. INCOME TAX REFERENCE No. 61 of 1999

MR MANISH R BHATT for Petitioner No.1

MR SN SOPARKAR for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 28/01/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question of law is referred for our opinion in respect of assessment year 1991-92 :-

"Whether the Tribunal is right in law and on facts in directing the AO to give relief u/s. 80I on the gross total income without reducing the same by allowance of sec.80HH relief ?"

2. We have heard Mr MR Bhatt, learned standing counsel for the revenue and Mr SN Soparkar, learned counsel for the respondent-assessee.

3. Our attention is invited to the decision rendered by us today in Income-tax Reference No. 53 of 1998 wherein we have held that for giving relief under Section 80I, no deduction is required to be made from the gross total income by reducing the same by allowance of deductions under Section 80HH. Following the said decision, we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

The reference accordingly stands disposed of.

(M.S. Shah, J.)

(A.M. Kapadia, J.)

sundar/-